

## **Chesapeake Bay Exception CBE-11-015: 504 East Tazewell's Way; Kingsmill**

Staff report for the September 8, 2010 Chesapeake Bay Board Public Hearing

This staff report is prepared by the James City County Environmental Division to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

### **Existing Site Data & Information**

Applicant: David Barglof, Mid Atlantic Enterprise, Inc.

Land Owner: T. Kerry and Elizabeth D. McCarter  
504 East Tazewell's Way  
Williamsburg, VA 23185

Location: 504 East Tazewell's Way  
PIN: 5030400079

Parcel Size/Zoning: 0.54 +/- acres, R4 Residential  
Percent of Parcel in RPA: 69% (0.37 +/- acres)

Watershed: College Creek (HUC - JL34)

### **Proposed Impacts**

Impervious Area: approximately 136 square feet

RPA Encroachment Seaward 50 foot RPA Buffer

### **Brief Summary and Description of Activities**

Mr. David Barglof of Mid Atlantic Enterprises, Inc. on behalf of Mr. and Mrs. McCarter has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for a retaining wall replacement and extension.

The proposed retaining wall will create approximately 136 square feet of impervious cover in the RPA buffer. The existing wall is showing signs of failure and this replacement and extension of the retaining wall will protect the existing house and driveway. The proposed mitigation measures of 1 canopy tree and 3 shrubs meets the County requirement based on the proposed impervious cover.

The lot was recorded before the 1990 adoption of the Chesapeake Bay Preservation Ordinance. In this case, the exception request is for the replacement and extension of a retaining wall which will encroach into the 50' RPA buffer. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing. Furthermore, staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board.

### **Staff Recommendation**

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be minimal for the proposed construction and that the proposed mitigation measures are adequate. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and with the proposed shrubs being of three gallon size.
3. A pre-construction meeting shall be held on-site prior to work commencing.
4. Full implementation of the RPA Mitigation Plan and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c) by providing a form of surety satisfactory to the County Attorney.
5. This exception request approval shall become null and void if construction has not been completed by September 8, 2011 including the required mitigation plantings.
6. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

### **Consideration by the Chesapeake Bay Board**

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-11-015 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-11-015 are included for the Board's use and decision.

Staff Report prepared by:

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Michael D. Woolson  
Senior Watershed Planner

CONCUR:

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Scott J. Thomas  
Secretary to the Board

Attachments: Sensitive Area Activity Application  
GIS photo